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DOCKET NO. D-2008-027 CP-2

DELAWARE RIVER BASIN COMMISSION

**West Deptford Energy, LLC
West Deptford Energy Station
Surface Water Withdrawal & Industrial Wastewater Discharge
West Deptford Township, Gloucester County, New Jersey**

PROCEEDINGS

This docket is issued in response to an Application submitted to the Delaware River Basin Commission (DRBC or Commission) by LS Power Development, LLC on behalf of West Deptford Energy, LLC (WDE or docket holder) on January 16, 2013 (Application), for renewal of a cooling water withdrawal and an industrial wastewater discharge associated with the new gas fired, combined cycle power generation facility known as the West Deptford Energy Station (WDES). The industrial wastewater component of the project was approved by the New Jersey Department of Environmental Protection (NJDEP) on March 31, 2009 via New Jersey Pollutant Discharge Elimination System (NJPDES) Permit No. NJ0171905. NJDEP issued an effective date for the NJPDES Permit of September 1, 2009. Modifications to the NJPDES Permit are expected shortly due to TDS effluent changes requested by the Gloucester County Utilities Authority (GCUA), where WDES withdraws its water. The NJDEP issued a Tri-County Water Quality Management Plan (WQMP) for GCUA and WDE on February 8, 2013 detailing the modifications to the withdrawal and discharge of cooling water at the WDES.

The Application was reviewed for inclusion of the project in the Comprehensive Plan and approval under Section 3.8 of the *Delaware River Basin Compact*. The Gloucester County Planning Commission has been notified of pending action. A public hearing on this project was held by the DRBC on May 7, 2013.

A. DESCRIPTION

1. Purpose. The purpose of this docket is to renew approval to construct and operate the WDES and to incorporate the WDES into the Comprehensive Plan. The docket also approves the following:

- An increase in the proposed withdrawal of treated effluent from the GCUA effluent pipeline for industrial cooling and process needs at the WDES from a maximum of

287.7 million gallons per 30 days (mg/30 days) to a maximum of 374.914 million gallons per month (mgm).

- An increase in discharge from a maximum of 2.6 million gallons per day (mgd) up to a maximum of 4.051 mgd of concentrated effluent back to the GCUA effluent pipeline at Monitoring Point DSN002A.
- A variance to the Commission's basin-wide TDS effluent limit at Monitoring Point DSN002A of 5,000 mg/l

Effluent limits in any future revised NJPDES Permit are expected to reflect an average flow of 3.1 mgd.

2. Location. The WDES is located adjacent to Water Quality Zone 4 of the Delaware River at River Mile 89.7. The facility is located in West Deptford Township, Gloucester County, New Jersey. The WDES's internal monitoring/compliance outfalls (DSN002A and DSN003A) and the GCUA effluent pipeline outfall (DSN001A) are located as follows:

| OUTFALL NO. | LATITUDE (N) | LONGITUDE (W) |
|----------------|---------------|---------------|
| DSN002A (WDES) | 39° 50' 46.0" | 75° 13' 26.0" |
| DSN003A (WDES) | 39° 50' 34.2" | 75° 13' 17.4" |
| DSN001A (GCUA) | 39° 51' 10" | 75° 13' 32.1" |

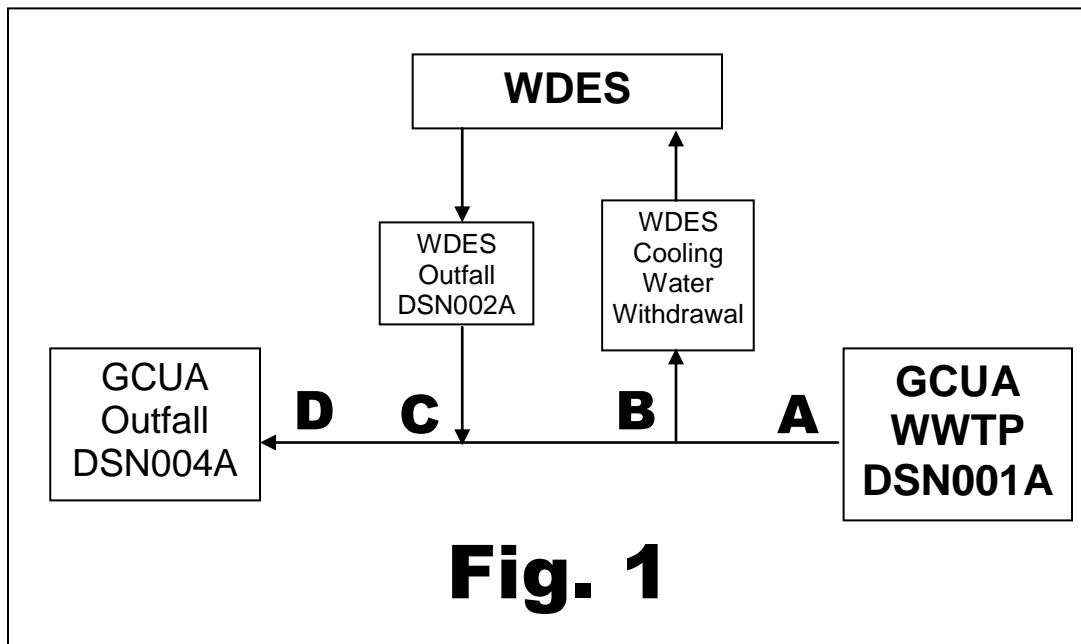
The WDES's cooling water withdrawal location is being withheld for security reasons.

3. Area Served. The diversion of water from GCUA's effluent pipeline for cooling water purposes will be utilized by the docket holder's WDES. Additionally, WDES will discharge industrial wastewater [which includes non-contact cooling water (NCCW) and boiler blow down] from onsite back to the GCUA effluent pipeline. For the purpose of defining the Area Served, Section B (Type of Discharge) and D (Service Area) of the docket holder's Application are incorporated herein by reference, to the extent consistent with all other conditions contained in the DECISION Section of this docket.

4. Physical Features.

a. Design Criteria. The docket holder proposes to construct a new gas fired, combined cycle power generation facility. Proposed maximum cooling water withdrawals are up to 374.914 mgm. The 4.051 mgd (maximum) industrial wastewater discharge will consist of regeneration backwash, NCCW, and boiler blow down, which will mix with GCUA's effluent prior to being discharged from GCUA's Outfall DSN001A to the Delaware River. WDES is expected to discharge an average of 3.1 mgd of industrial wastewater back into the GCUA effluent pipeline. Approximately 73% of the water withdrawn and used by WDES is estimated to be consumptively used.

b. **Facilities.** The docket holder proposes to divert treated wastewater effluent from GCUA's existing 6,025 foot long effluent pipeline to utilize as cooling water. WDES will withdraw treated wastewater from GCUA's effluent pipeline at point B (See Fig. 1). WDES will operate a pretreatment system to remove suspended solids from the GCUA effluent.



The WDES will be a dual-fuel combined-cycle electric generation facility that will generate up to a nominal output of 1,500 megawatts (MW). The primary fuel will be pipeline quality natural gas and the secondary back-up fuel will be ultra-low sulfur diesel (ULSD), containing less than or equal to 15 parts per million (ppm) of sulfur content. The proposed energy facility will be comprised of four combined-cycle power blocks; each block consisting of one Combustion Turbine Generator (CTG) and one Heat Recovery Steam Generator (HRSG). Each HRSG will be equipped with a gas fired duct burner that will be utilized to augment power production during operation of combustion turbines. Steam generated in the HRSGs will be used to power one or more Steam Turbine Generators (STG).

The major equipment and ancillary system will be comprised of four combined-cycle power blocks, two 40 MMBtu/hr natural gas-fired auxiliary boilers, two engine-driven 750 kW emergency generators with one 2,000 gallon diesel storage tank, a two million gallon fuel oil storage tank, a 45,000 gallon aqueous ammonia (19%) storage tank, and four multi-cell cooling towers.

In addition, the proposed energy facility will include necessary balance-of-plant (BOP) equipment and systems such as natural gas metering and handling systems, plant instrumentation and control systems, water treatment and storage facilities, fuel oil receiving, storage and forwarding, high voltage electrical transformers, and an administration/maintenance building and warehouse. Water treatment equipment will be required to provide boiler feed-water and cooling tower circulating water.

Existing Columbia Gas and Transco pipelines are located approximately 8,500 feet southeast of the proposed WDES. The gas supplier will seek permission from the Federal Energy Regulatory Commission (FERC) to interconnect their existing pipeline to a new gas metering station to be located within the fence line of the proposed WDES. The WDES will route the gas pipeline from the gas metering station to the combustion turbines.

WDES effluent will be discharged back to GCUA's existing discharge pipe at a point 720 feet from GCUA Outfall No. DSN001A (Outfall No. DSN002A, See Fig 1 – Point C). GCUA's existing discharge was approved by DRBC Docket No. D-1990-074 CP-3 on December 9, 2009. Renewal of the GCUA discharge is expected at the May 8, 2013 Commission Hearing via Docket No. D-1990-074 CP-4. WDES's effluent will be monitored and metered prior to discharge back to the GCUA pipeline and the effluent criteria included in this docket and NJPDES Permit No. NJ0171905 were established for this compliance point (DSN002A).

The project facilities are not located in the 100-year floodplain.

Wasted sludge will be hauled off-site by a licensed hauler for disposal at a (State-approved) facility.

c. Water withdrawals. Potable water for the WDES is supplied by the New Jersey American Water Company (NJAWC), which was approved by DRBC Docket No. D-99-73 CP on September 13, 2001. In addition, the docket holder will withdrawal up to 374.914 mgm from GCUA's treated effluent stream for cooling water purposes.

d. NJPDES Permit / DRBC Docket. The NJDEP issued NJPDES Permit No. NJ0171905 on September 1, 2009, which includes effluent limitations for the project discharge of 2.0 mgd (average) to surface waters classified by the NJDEP as Delaware River Zone 4. The NJDEP issued a Tri-County WQMP on February 8, 2013 amending the average discharge flow to 3.1 mgd. The following average monthly effluent limits are among those listed in the NJPDES Permit and after updating with respect to the Tri-County WQMP are expected to meet or are more stringent than the effluent requirements of the DRBC.

EFFLUENT TABLE A-1: DRBC Parameters Included in NJPDES Permit

| OUTFALL DSN002A (Internal Monitoring Point for WDES prior to discharge to GCUA) | | |
|--|---|------------------------------|
| PARAMETER | LIMIT | MONITORING |
| pH (Standard Units) | 6 to 9 at all times* | As required by NJPDES permit |
| Total Suspended Solids | 60 mg/l * | As required by NJPDES permit |
| Toxicity (Chronic & Acute)* | Monitor & Report*** | As required by NJPDES permit |
| Total Dissolved Solids ** | 5,000 mg/l * (daily max) 142,073 lbs/day (daily max) * | As required by NJPDES permit |
| Temperature* | 34°C | As required by NJPDES permit |
| PCBs | Monitor & Report | As required by NJPDES permit |

* DRBC Requirement

*** See DECISION Condition I.I.

EFFLUENT TABLE A-2: DRBC Parameters Not Included in NJPDES Permit

| OUTFALL DSN002A (Internal Monitoring Point for WDES prior to discharge to GCUA) | | |
|--|---|-------------------|
| PARAMETER | LIMIT | MONITORING |
| Ammonia Nitrogen* | 85 mg/l* | Quarterly* |
| BOD (5-Day at 20° C)* | Monitor & Report * | Monthly*** |
| CBOD 20* | Monitor & Report * | Monthly*** |
| Total Dissolved Solids * | 5,000 mg/l * (daily max) 142,073 lbs/day (daily max) * | Monthly** |

* DRBC Requirement

** See DECISION Condition II.y.

*** See DECISION Condition II.m.

Effluent limitations for TSS and Ammonia of 60 mg/l and 85 mg/l, respectively were applied to the WDES discharge. These limitations are larger than the Commission's basin-wide effluent limitations because WDES has an internal monitoring point and the compliance point (Outfall DSN002A) is not a direct outfall to a waterbody.

e. Other. Sanitary wastewater from WDES will be conveyed to the head of the GCUA WWTP for complete treatment. The GCUA WWTP was most recently approved by DRBC Docket No. D-1990-074 CP-3 on December 9, 2009. The NJDEP issued its most recent NJPDES Permit No. NJ0024686 on May 12, 2010, effective July 1, 2010, and last amended on November 12, 2010, effective January 1, 2011 for this treatment facility. Renewal of the discharge from the GCUA WWTP is expected to be heard at the May 8, 2013 Commission Hearing via Docket No. D-1990-074 CP-4. The treatment facility has adequate capacity to receive wastewater from the proposed project.

f. Cost. The overall cost of this project is estimated to be \$1,500,000,000.

f. Relationship to the Comprehensive Plan. Issuance of this docket will include the WDES into the Comprehensive Plan (See DECISION Condition I.c.).

B. FINDINGS

The purpose of this docket is to renew approval to construct and operate the WDES and to incorporate the WDES into the Comprehensive Plan. The docket also approves the following:

- An increase in the proposed withdrawal of treated effluent from the GCUA effluent pipeline for industrial cooling and process needs at the WDES from a maximum of 287.7 mg/30 days to a maximum of 374.914 mgm.
- An increase in discharge from a maximum of 2.6 mgd up to a maximum of 4.051 mgd of concentrated effluent back to the GCUA effluent pipeline at Monitoring Point DSN002A.
- A variance to the Commission's basin-wide TDS effluent limit at Monitoring Point DSN002A of 5,000 mg/l

Effluent limits in any future revised NJPDES Permit are expected to reflect an average flow of 3.1 mgd.

Toxicity, temperature and TDS necessitated an in-stream analysis and determination of mixing zones. The in-stream analysis was performed on the combined effluent stream at GCUA's Outfall No. DSN004A.

Toxicity

Zone 4 stream quality objectives exist for toxic pollutants. They include criteria to protect the taste and odor of ingested water and fish (Table 4 of DRBC's Water Quality Regulations (WQR)), to protect aquatic life (Table 5), and to protect human health (Tables 6 & 7). The stream quality objectives include Whole Effluent Toxicity (WET) as a measure of cumulative toxicity in effluent for both acute and chronic exposures.

Chronic Toxicity

To determine the need for chronic wasteload allocation, the DRBC requires chronic toxicity monitoring for discharges in the estuary. DECISION Condition II.1. of this docket contains monitoring requirements for Chronic Toxicity.

Acute Toxicity

To determine the need for an acute wasteload allocation and effluent limit, the DRBC requires acute toxicity monitoring for discharges in the estuary. The acute toxicity stream quality objective for Zone 4 is 0.3 Toxic Units (TU_a = 0.3).

The docket holder shall monitor for both Acute Toxicity and Chronic Toxicity at WDES's internal Outfall No. DSN002A. The docket holder shall submit a summary of the first 24 months of toxicity monitoring results along with corresponding flow, specific conductivity, and TDS concentrations (if available) to the DRBC's Project Review Section. The report shall be submitted 30 months after start of operation. All samples are to be taken in conjunction with GCUA samples (Outfalls Nos. DSN001A & DSN004A). After review of the first 24 months of sampling, the testing frequency may be reduced, eliminated or modified, dependent upon the results. The docket holder can make this request in writing to the Executive Director.

In the event that WDES's acute toxicity monitoring results demonstrate the potential to exceed the Commission's Stream Quality Objective for acute toxicity (TU_a = 0.3), the Executive Director will direct the docket holder and GCUA to conduct additional studies of the commingled effluent.

Furthermore, all WET sampling shall be coordinated with GCUA to ensure that monitoring is done by both WDES and GCUA on the same day (See DECISION Condition II.1.).

The acute results shall be reported as a 48-hour and 96-hour lethal concentration (LC₅₀) and TUa. The testing should follow USEPA guidance on Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms (EPA 821-R-02-012, 5th Ed, October 2002) or equivalent New Jersey guidance on effluent limits.

Heat Dissipation Area

Section 4.30.6C. of the Commission's WQR require that discharges to Zone 4 shall not result in an induced temperature increase of 5°F (2.8°C) above the average 24-hour temperature gradient displayed during the 1961-1966 period, or a maximum of 86°F (30.0°C), whichever is less.

Within the docket holder's NJPDES Permit Application submitted in July 2008, the docket holder evaluated the impact of a combined GCUA and WDES discharge of up to 21.5 mgd from GCUA's Outfall No. DSN004A. As part of the NJDEP and DRBC applications, WDES requested a 164' radial heat dissipation area (thermal mixing zone) be granted to the GCUA Outfall No. DSN004A in order for the combined effluent to meet the DRBC thermal requirement for Zone 4.

Section 4.30.6F.3. of the Commission's WQR allows for heat dissipation areas (thermal mixing zone) up to 3,500 feet in length. The docket holder has provided data that supports that under the 1961-1966 condition a thermal mixing zone need not be larger than 164 feet. The docket holder has requested a 164' radial thermal mixing zone (with a 4.1 dilution) be applied to GCUA Outfall No. DSN004A to ensure that ambient temperature does not exceed the 2.8°C increase throughout the tidal cycle. The heat dissipation area is centered around GCUA's Outfall No. DSN004A.

The temperature of effluent discharged at Outfall No. DSN004A is expected to be higher than originally modeled in 2008 as a result of operational changes (water withdrawal volumes, water cycling frequency) that will occur at WDES to accommodate variable effluent quality discharged from GCUA and to meet demand. The docket holder supplied Commission staff with revised CORMIX modeling work that supports a new heat dissipation area of 994 feet (361 feet upstream and 633 feet downstream) by 144 feet wide centered on Outfall No. DSN004A. The new dilution factor was calculated to be 5.9 to 1. DRBC staff have determined that the new heat dissipation area conforms with the Commission's WQR and recommend its approval (See DECISION Condition II.h. of Docket No. D-1990-074 CP-4).

Total Dissolved Solids (TDS)

The Commission's basin-wide TDS effluent limit is 1,000 mg/l (Section 3.10.4D.2. of the Commission's WQR). In addition, the Commission's basin-wide in-stream TDS requirements provide the analysis of the instream conditions after the introduction of the project's effluent discharge demonstrate that 1) the receiving stream's resultant TDS concentration be less than 133% of the background (Section 3.10.3B.1.b. of the Commission's WQR) and the receiving stream's resultant TDS concentration be less than 500 mg/l (Section 3.10.3B.2. of the Commission's WQR).

The 133% of the background TDS requirement is for the protection of aquatic life. The 500 mg/l TDS requirement is to protect the use of the receiving stream as a drinking water source. The EPA's Safe Drinking Water Act's secondary standard for TDS is 500 mg/l.

Water Quality Zone 4 stream quality objectives do not explicitly include the designated use of water for public drinking water supplies. As a consequence, the Commission finds that the 500 mg/l basin-wide TDS requirement is not always applied in Water Quality Zone 4. The Commission reserves the right, in accordance with the WQR and the *Rules of Practice and Procedure*, to apply the 500 mg/l basin-wide TDS requirement in Water Quality Zone 4 when and where it determines that the requirements are necessary to protect water uses in Water Quality Zone 4.

The in-stream 500 mg/l basin-wide TDS requirement was not applied to the combined discharge, however the 133% requirement was applied because of the discharge's location several miles above the usual salinity line (250 mg/l chlorides) of the Estuary. There are no public water supply intakes located on the Delaware River within 5 miles of the project discharge.

Background TDS is to be the observed concentration of TDS during low flow conditions (Q7-10) or, in the absence thereof, an estimate acceptable to the Commission (WQR Section 3.10.6.G.). Observed TDS concentrations from the Delaware Estuary, from years 2000 to 2005 were provided by DRBC staff and the impact of effluent is evaluated at various quantities.

WDE submitted a TDS determination request to supplement their Application in August 2008. WDE provided a document for CORMIX model run analyses in September 2008 and a document responding to Commission staff's comments on November 25, 2008. Background TDS concentrations vary from 130.5 mg/l to 519.5 mg/l (at 25th and 95th percentile) based upon hydrologic and astrological tidal conditions near River Mile 90 (where the combined GCUA and WDES effluent discharge is located). The high background TDS condition is reasonably assumed to occur during low flow conditions. Therefore, the 95th percentile value, or 519.5 mg/l of TDS was used for background TDS concentration around river mile 90.

The estimated **daily maximum** TDS concentration for the combined effluent in 2008 was 1,400 mg/l requiring a dilution factor of 5.1 to meet the 133% of background TDS concentration of 519.5 mg/l. The Commission's WQRs do not specifically provide criteria to evaluate TDS mixing zones, however, Section 4.20.5A.1.a of the Commission's WQR provides criteria for the evaluation of acute toxicity mixing zones. Based on CORMIX model runs, a dilution factor of 5.1 can be achieved within a guideline acute toxicity mixing zone. The guideline acute toxicity mixing zone is defined as the more stringent of the following restrictions:

- A distance of 50 times the discharge length scale in any direction from the outfall structure, or
- A distance of 5 times the local water depth in any direction from the outfall structure.

The guideline acute toxicity mixing zone criteria for Outfall No. DSN004A was used to evaluate TDS at that time and the second restriction (a distance of 5 times the local water depth) was found most limiting. The result was a TDS mixing zone of 32 meters (105 feet) around

Outfall No. DSN004A. Model runs demonstrated that the combined effluent with daily maximum TDS concentration of 1,400 mg/l would not cause an exceedance of 133% of background at the edge of a 32 meter radius mixing zone centered on Outfall No. DSN004A.

Due to an expected increase in TDS concentrations as a result of Reverse Osmosis reject water conveyed to the GCUA WWTP from potable water treatment systems in its service area, GCUA requested an increase in TDS for Outfalls Nos. DSN001A and DSN004A from 1,000 mg/l and 1,400 mg/l to 1,250 mg/l and 2,570 mg/l, respectively. As a result of this increased TDS concentration in the effluent and operational flexibility required by WDE, the WDES will need to withdraw and discharge more water (locations B & C, Fig. 1 above) from/to the GCUA effluent pipeline. The TDS concentration in the WDES discharge will increase from 4,200 mg/l to 5,000 mg/l. Using the acute toxicity guidelines as was performed in Docket No. D-1990-074 CP-3, the resulting TDS mixing zone centered on Outfall No. DSN004A is 1,561 feet in length (844 feet upstream and 717 feet downstream) by 217 feet wide when the facility operates at three cycles.

In summary, this docket approves a variance to the Commission's 1,000 mg/l basin-wide TDS effluent limit of 5,000 mg/l at Outfall No. DSN002A (location C, Fig.1).

CBOD₂₀ Wasteload Allocation

The Commission's Water Quality Regulations provide for the allocation of the stream assimilative capacity where waste discharges would otherwise result in exceeding such capacity. It was determined in the 1960's that discharges to the Delaware Estuary be limited to a total of 322,000 lbs/day of carbonaceous biochemical (first stage) oxygen demand (CBOD₂₀). In accordance with the Regulations, the assimilative capacity of each Delaware Estuary zone minus a reserve was originally allocated in 1968 among the individual dischargers based upon the concept of uniform reduction of raw waste in a zone (Zones 2, 3, 4 and 5). The totals and percent reduction for each zone are given in Table 1 of the Commission's *Status of CBOD₂₀ Wasteload Allocations* (Revised October 1, 2000). The combined GCUA and WDES outfall is located in Water Quality Zone 4 at river mile 89.7. Zone 4 has a reserve capacity of ~26%.

The docket includes a monitoring requirement for WDES (Outfall No. DSN002A) to gather data to determine whether an allocation of CBOD₂₀ is warranted. The docket holder is required to monitor for both BOD₅ and CBOD₂₀ and to prepare a correlation between the two. During the renewal of this docket, if necessary, a CBOD₂₀ allocation would be established for the facility that includes the site specific correlation between CBOD₂₀ and BOD₅ (See DECISION Condition II.m.).

Other

At Outfall No. DSN004A, the Delaware River is tidal and its flow is regulated by upstream reservoir releases. The Trenton low flow target is 2,500 cfs (1.62 billion gallons per day). The addition of the tidal tributaries upstream of the discharge location at their Q7-10 flow and the low flow Trenton target results in a low-flow of approximately 4,318 cfs (2.79 billion gallons per day) for the Delaware River at the discharge location (River Mile 89.7).

All water used by the WDES is subject to DRBC Water Supply Charges in accordance with the provisions of Resolution No. 74-6, as amended.

The project does not conflict with the Comprehensive Plan and is designed to prevent substantial adverse impact on the water resources related environment, while sustaining the current and future water uses and development of the water resources of the Basin.

The limits in the NJPDES Permit are in compliance with Commission effluent quality requirements, where applicable.

The project is designed to produce a discharge meeting the effluent requirements as set forth in the Commission's *WQR*.

C. DECISION

I. Effective on the approval date for Docket No. D-2008-027 CP-2 below:

a. Docket No. D-2008-27-1 is terminated and replaced by Docket No. D-2008-027 CP-2; and

b. The project and the appurtenant facilities described in Section A "Physical Features" of this docket shall be added to the Comprehensive Plan.

II. The project and appurtenant facilities as described in Section A "Physical Features" of this docket are approved pursuant to Section 3.8 of the *Compact*, subject to the following conditions:

a. Docket approval is subject to all conditions, requirements, and limitations imposed by the NJDEP in its NJPDES Permit, and such conditions, requirements, and limitations are incorporated herein, unless they are less stringent than the Commission's.

b. The facility and operational records shall be available at all times for inspection by the DRBC.

c. The facility shall be operated at all times to comply with the requirements of the Commission's *WQR*.

d. During any month, the withdrawal from the GCUA effluent pipeline shall not exceed 374.914 million gallons.

e. The docket holder shall pay DRBC for the water withdrawn from the GCUA effluent pipeline in accordance with the provisions of Resolution No. 74-6, as amended.

f. The project withdrawals shall be metered with an automatic continuous recording device that measures to within 5 percent of actual flow. An exception to the 5 percent performance standard, but no greater than 10 percent, may be granted if maintenance of the

5 percent performance is not technically feasible or economically practicable. A record of daily withdrawals shall be maintained, and monthly totals shall be reported to the NJDEP quarterly and shall be available at any time to the Commission if requested by the Executive Director.

g. The docket holder shall implement to the satisfaction of the NJDEP, a drought or other water supply emergency plan.

h. During any water emergency or other non-emergency declaration by the Governor of New Jersey, NJDEP or the Commission, water service or use by the project docket holder pursuant to this docket approval shall be subject to any order or restriction governing those non-essential uses specified by the NJDEP to the extent that they may be applicable, and to any other emergency resolutions or orders adopted by the Commission.

i. The docket holder shall comply with the requirements contained in the Effluent Tables in Section A.4.d. of this docket. The docket holder shall submit the required monitoring results directly to the DRBC Project Review Section. The monitoring results shall be submitted annually, absent any observed limit violations, by January 31. If a DRBC effluent limit is violated, the docket holder shall submit the result(s) to the DRBC within 30 days of the violation(s) and provide a written explanation that states the action(s) the docket holder has taken to correct the violation(s) and protect against any future violations.

j. Except as otherwise authorized by this docket, if the docket holder seeks relief from any limitation based upon a DRBC water quality standard or minimum treatment requirement, the docket holder shall apply for approval from the Executive Director or for a docket revision in accordance with Section 3.8 of the *Compact* and the *Rules of Practice and Procedure*.

k. Nothing herein shall be construed to exempt the docket holder from obtaining all necessary permits and/or approvals from other State, Federal or local government agencies having jurisdiction over this project.

l. The docket holder shall monitor for both Acute Toxicity and Chronic Toxicity at WDES Outfall No. DSN002A. After 24 months of sampling, the docket holder can request in writing to the Executive Director to modify the toxicity monitoring frequency requirement. The docket holder shall submit a summary of the first 24 months of toxicity monitoring results along with corresponding flow, specific conductivity, and TDS concentrations (if available) to the DRBC (Project Review Section). The report shall be submitted 30 months after start of operation. All samples are to be taken in conjunction with GCUA samples at Outfall No. DSN001A.

m. The docket holder shall perform monthly monitoring for both CBOD₂₀ and BOD₅ at WDES Outfall No. DSN002A in order to develop the facility specific correlation between the two. After 24 months of sampling, the docket holder can request in writing to the Executive Director to modify the CBOD₂₀ and BOD₅ monitoring frequency requirement. During the renewal of this docket, the monitoring results will be used to adjust any CBOD₂₀ allocation as necessary.

n. Sound practices of excavation, backfill and reseedling, as approved by the Gloucester County Soil Conservation District, shall be followed to minimize erosion and deposition of sediment in streams.

o. Within 10 days of the date that construction of the project has started, the docket holder shall notify the DRBC of the starting date and scheduled completion date.

p. Within 30 days of completion of construction of the approved project, the docket holder is to submit to the attention of the Project Review Section of DRBC a Construction Completion Statement (“Statement”) signed by the docket holder’s professional engineer for the project. The Statement must (1) either confirm that construction has been completed in a manner consistent with any and all DRBC-approved plans or explain how the as-built project deviates from such plans; (2) report the project’s final construction cost as such cost is defined by the project review fee schedule in effect at the time the application was made; and (3) indicate the date on which the project was (or is to be) placed in operation. In the event that the final project cost exceeds the estimated cost used by the docket holder to calculate the DRBC project review fee, the statement must also include (4) the amount of any outstanding balance owed for DRBC review. The outstanding balance will equal the difference between the fee paid to the Commission and the fee calculated on the basis of the project’s final cost, using the formula and definition of “project cost” set forth in the DRBC’s project review fee schedule in effect at the time application was made.

q. This docket approval shall expire three years from date below unless prior thereto the docket holder has commenced operation of the subject project or has expended substantial funds (in relation to the cost of the project) in reliance upon this docket approval.

r. The docket holder is permitted to treat and discharge wastewaters as set forth in the Area Served Section of this docket, which incorporates by reference Sections B (Type of Discharge) and D (Service Area) of the docket holder’s Application to the extent consistent with all other conditions of this DECISION Section.

s. The docket holder shall make wastewater discharge in such a manner as to avoid injury or damage to fish or wildlife and shall avoid any injury to public or private property.

t. Nothing in this docket approval shall be construed as limiting the authority of DRBC to adopt and apply charges or other fees to this discharge or project.

u. The issuance of this docket approval shall not create any private or proprietary rights in the waters of the Basin, and the Commission reserves the right to amend, suspend or rescind the docket for cause, in order to ensure proper control, use and management of the water resources of the Basin.

v. Unless an extension is requested and approved by the Commission in advance, in accordance with paragraph 11 of the Commission’s Project Review Fee schedule (Resolution No. 2009-2), the docket holder is responsible for timely submittal of a docket renewal application on the appropriate DRBC application form at least 12 months in advance of the docket expiration date set forth below. The docket holder will be subject to late charges in

the event of untimely submittal of its renewal application, whether or not DRBC issues a reminder notice in advance of the deadline or the docket holder receives such notice. In the event that a timely and complete application for renewal has been submitted and the DRBC is unable, through no fault of the docket holder, to reissue the docket before the expiration date below (or the later date established by an extension that has been timely requested and approved), the terms and conditions of the current docket will remain fully effective and enforceable against the docket holder pending the grant or denial of the application for docket approval.

w. The Executive Director may modify or suspend this approval or any condition thereof, or require mitigating measures pending additional review, if in the Executive Director's judgment such modification or suspension is required to protect the water resources of the Basin.

x. Any person who objects to a docket decision by the Commission may request a hearing in accordance with Article 6 of the Rules of Practice and Procedure. In accordance with Section 15.1(p) of the Delaware River Basin Compact, cases and controversies arising under the Compact are reviewable in the United States district courts.

y. The docket holder may request of the Executive Director in writing the substitution of specific conductance for TDS. The request should include information that supports the effluent specific correlation between TDS and specific conductance. Upon review, the Executive Director may modify the docket to allow the substitution of specific conductance for TDS monitoring.

z. Whenever the Commission's Drought Management Plan (present or future) indicates that storage levels in the Delaware River Basin have fallen below normal conditions for five consecutive days, and the daily mean "Equivalent Flow" (as measured at the Trenton U.S.G.S. gage, minus the previous day's release from Merrill Creek Reservoir, and including appropriate adjustments for directed releases from Blue Marsh Reservoir) is below 3,000 cfs and is forecast to remain below 3,000 cfs for the next day, or whenever the salt front (250 isochlor) is above River Mile 92.5, the docket holder shall operate the power supply project at a level corresponding to the equivalent consumptive use that the docket holder can replace on a daily basis, or as otherwise approved by the Executive Director of the DRBC. The docket holder shall submit an Operating Plan to the Project Review Section addressing how they plan to operate during such conditions within 365 calendar days or prior to operation of the WDES, whichever occurs first.

aa. The docket holder is prohibited from treating/pre-treating any hydraulic fracturing wastewater from sources in or out of the Basin at this time. Should the docket holder wish to treat/pre-treat hydraulic fracturing wastewater in the future, the docket holder will need to first apply to the Commission to renew this docket and be issued a revised docket allowing such treatment and an expanded service area. Failure to obtain this approval prior to treatment/pre-treatment will result in action by the Commission.

BY THE COMMISSION

DATE APPROVED:

EXPIRATION DATE: June 30, 2015

DRAFT